

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 02-00438 DAE
)	
Plaintiff,)	
)	
vs.)	
)	
AARON A. RUTLEDGE,)	
ANTHONY A. RUTLEDGE, SR.,)	
a/k/a "TONY" RUTLEDGE,)	
STAR-BEACHBOYS, INC.,)	
)	
Defendants.)	
_____)	

ORDER GRANTING THE GOVERNMENT'S LIMITED OPPOSITION TO THE
COURT'S STIPULATED PROPOSED ORDER DISCHARGING THE
RECEIVER

On June 2, 2006, this Court signed a stipulated proposed order ("Discharge Order") to release the court appointed receiver, EG&G Technical Services, Inc., and its agent, Anthony Pounders ("Receiver"), from any further involvement with this case and the management of Unity House, Inc. ("Unity House"). The Discharge Order contained a number of provisions including, *inter*

alia, Paragraph 7, which stated that “[s]ince the Receiver acted at the request of the United States and as an agent for the Internal Revenue Service, the United States shall indemnify and hold harmless the Receiver . . . from any type of threatened, pending, or completed action, suit, or proceeding arising from or related to the receivership”

On July 7, 2006, the Government filed an objection to the Discharge Order on the basis that this Court is without authority to compel the United States to indemnify the Receiver. In particular, the Government contends that this broad prospective indemnification violates the United States’ sovereign immunity and is contrary to the Appropriations Clause of the United States’ Constitution and the Anti-Deficiency Act. This Court agrees with the Government’s objections.

Accordingly, Unity House, the Receiver, and the Government shall either strike Paragraph 7 of the Discharge Order or replace the language with terms acceptable to all parties.

CONCLUSION

For the reasons stated above, the Court hereby GRANTS the Government's Limited Opposition to the Court's Stipulated Proposed Order Discharging the Receiver.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 25, 2006.





David Alan Ezra
United States District Judge

United States of America vs. Aaron A. Rutledge, et al., CR. No. 02-00438 DAE;
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